

### **REMARKS**

Favorable reconsideration of this application as presently amended and in light of the following discussions is respectfully requested.

Claims 21-49 are pending in the present application. Claims 1-20 have been cancelled and claims 21-49 have been added by the present amendment.

In the outstanding Office Action, claims 1-13 were rejected under the judicially created doctrine of obviousness-type double patenting as unpatentable over claims 1-13 of U.S. Patent No. 6,625,093; claims 14-17 were rejected under 35 U.S.C. § 102(e) as anticipated by Nagai et al.; and claims 18-20 were rejected under 35 U.S.C. § 103(a) as unpatentable over Joo et al. in view of Yoshida et al.

As noted above, claims 1-20 have been cancelled and new claims 21-49 have been added. Accordingly, the double patenting rejection of claims 1-13 and the rejections of claims 14-17 under 35 U.S.C. § 102(e) and claims 18-20 under 35 U.S.C. § 103(a) are moot. However, comments will be presented distinguishing the new independent claims 21-49 over the applied art.

In more detail, new independent claim 21 is directed to a method for controlling a servo operation of an optical recording medium including a non-writable area having a plurality of header fields with at least one header field staggered with respect to another header field. The method includes (a) determining a difference between a first synchronization reference signal included in the one header field and a second synchronization reference signal included in said another header field, and (b) controlling the servo operation of the optical recording medium based on the determined difference in the step (a). Independent claims 45 and 48 include similar features in a varying scope.

These features are supported at least by Figure 5 and the corresponding description in the specification. In more detail, Figure 5A illustrates determining a difference between a first synchronous reference signal VFO<sub>1</sub> included in one header field and a second synchronization reference signal VFO<sub>3</sub> included in another header field. Figure 5B illustrates that the difference

between the first and second reference signals is zero and thus indicates that no detract has occurred. Figure 5A and Figure 5C illustrate variations of the determined differences.

Neither of these cited references teach or suggest determining the difference and controlling the server operation based on the determined difference as in the present invention. That is, Nagai et al. merely teach four address blocks ID1-ID4 being placed in a sector area 5 as shown in Figure 7, for example. Figure 9 illustrates additional information blocks 107, 108 and 109 also being used to determine whether or not a track is a land or a groove track. Nagai et al. does not teach or suggest determining a difference between reference signals included in corresponding header fields as in the present invention. Similar comments apply to Joo et al. and Yoshida et al. In addition, it is respectfully noted Joo et al. has a filing date of August 30, 1999, which is later than any of the claimed priority documents of the present invention. Therefore, if necessary, Joo et al. can be removed as a reference by filing an English translation of the claimed foreign priority documents.

Accordingly, it is respectfully submitted the pending claims are allowable.

In addition, the specification has been amended to correct minor informalities. No new matter has been added.

**CONCLUSION**


In view of the above amendment, applicant believes the pending application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact David Bilodeau Reg. No. 42,325 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

Dated: September 18, 2006

Respectfully submitted,

By   
Esther H. Chong  
Registration No.: 40,953  
BIRCH, STEWART, KOLASCH & BIRCH, LLP  
8110 Gatehouse Road  
Suite 100 East  
P.O. Box 747  
Falls Church, Virginia 22040-0747  
(703) 205-8000  
Attorney for Applicant